

ICTR-2002-80-I

12-08-2002

(253 — 251)

253

only



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

UNITED NATIONS
NATIONS UNIES

BEFORE THE HONOURABLE JUDGE: Navanthem Pillay, President

REGISTRAR: Adama Deing

FILED ON: 12 August 2002

CASE NO: ICTR -2002- 80 -I

The Prosecutor

V

LEONIDAS RUSATIRA

JUDICIAL RECORDS DIVISION
RECEIVED
ICTR
2002 AUG 12 A 11:32
[Signature]

**PROSECUTOR'S APPLICATION TO WITHDRAW INDICTMENT
AGAINST LEONIDAS RUSATIRA WITHOUT PREJUDICE**

Office of the Prosecutor

Carla Del Ponte
Prosecutor

PROSECUTOR'S APPLICATION TO WITHDRAW INDICTMENT
AGAINST LEONIDAS RUSATIRA WITHOUT PREJUDICE

The Prosecution respectfully requests, that the President grant leave to the Prosecutor to withdraw the Indictment against LEONIDAS RUSATIRA.

Background

1. The original Indictment charging Leonidas Rusatira (The Accused) with genocide or in the alternative complicity in genocide, crimes against humanity for murder and extermination and violations of article 3 common to the Geneva Conventions and additional Protocol II was confirmed on 12 April 2002 by Judge L. G. Williams.
2. A warrant of arrest against the Accused was issued by the Confirming Judge on 12 April 2002. On the basis of this warrant, the Accused was arrested in Brussels, by the Authorities of the Kingdom of Belgium, where he is still in detention, waiting for his transfer to Arusha.
3. The present application is made to the President, Judge Navanethem Pillay, since Judge L. G. Williams is not on duty, and the present condition of detention of the Accused does not permit any delay.
4. Evidence obtained in the course of further investigation, against the Accused, has been thoroughly reviewed. As a result, the Prosecutor has determined that there is insufficient evidence at this time to proceed to trial against the Accused.
5. The Prosecutor submits that withdrawal of the indictment against the Accused does not preclude the pursuit of the same or other charges against him in the future, which may be based on evidence gathered in the ongoing investigation.

THE LAW

6. The request for leave to withdrawal an indictment is brought under the provisions of Rule 51 of the Rules of Procedure and Evidence (Rules), which provides thus-

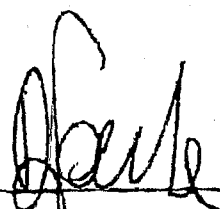
Rule 51 (A) *The Prosecutor may withdraw an indictment, without prior leave, at any time before its confirmation, but thereafter, until the initial appearance of the accused before a Trial Chamber pursuant to Rule 62, only with leave of the Judge who confirmed it but, in exceptional circumstances, by leave of a Judge assigned by the President. At or after such initial appearance an indictment may only be withdrawn by leave granted by a Trial Chamber pursuant to Rule 73*

Rule 51 (B) *The withdrawal of the indictment shall be promptly notified to the suspect or the accused and to the counsel of the suspect or accused.*

The Request

7. For the reasons set forth above, the Prosecutor is seeking for leave to withdraw the indictment, the warrant of arrest and related orders, against Leonidas Rusafira without prejudice to the Prosecutor's right to pursue the same or other charges in the future; and for any other consequent order as the Judge finds just in the interest of justice.

8. The Prosecutor prays for the grant of the Request.



Carla Del Ponte
Prosecutor

Dated this 9 August 2002
The Hague
The Netherlands

TRANSMISSION SHEET FOR OFFICIAL FILING OF DOCUMENTS WITH CMS

(Art. 27 of the Directive for the Registry, Court Management Section, International Criminal Tribunal for Rwanda)

| | | | | | |
|---|---|---|--|--|--|
| To: | <input type="checkbox"/> OIC, CMS J.P. Fomété | <input type="checkbox"/> Trial Chamber I Y. Ling | <input type="checkbox"/> Trial Chamber II R. Kouambo | <input checked="" type="checkbox"/> Trial Chamber III K. Afande | <input type="checkbox"/> Appeals Officer F. Talon /A. N'Gum |
| From: | <input type="checkbox"/> Chamber (name) | <input type="checkbox"/> Defence (name) | <input checked="" type="checkbox"/> Prosecutor's Office SILVANA ARBIA (name) | <input type="checkbox"/> Other: (name) | |
| Case Name: | The Prosecutor vs. LEONIDAS RUSATIRA | | | Case Number: ICTR-2002-80-I | |
| Date: | Transmitted: 12 AUG 2002 | | Document's date: 9 AUG 2002 | | No. of Pages: 3 |
| Original / Transl. | Document is a(n): <input type="checkbox"/> ORIGINAL: Fill sections below <input type="checkbox"/> TRANSLATION into <input type="checkbox"/> Eng <input checked="" type="checkbox"/> Fr <input type="checkbox"/> Kinyar. (original was filed on) | | | | |
| Doc. Title | PROSECUTOR'S APPLICATION TO WITHDRAW INDICTMENT AGAINST LEONIDAS RUSATIRA WITHOUT PREJUDICE | | | | |
| Classification Level: <input checked="" type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input type="checkbox"/> Public | | | TRIM Doc Type: <input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Order <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Judgement <input type="checkbox"/> Decision <input type="checkbox"/> Correspondence <input type="checkbox"/> Disclosure <input type="checkbox"/> Submission from parties <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Affidavit <input type="checkbox"/> Accused particulars <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Book <input type="checkbox"/> Book of Authorities | | |

TRANSLATION STATUS ON DATE OF FILING OF ORIGINAL (completed by Chamber / Filing Party)

| | |
|--|---|
| No action required by CMS regarding translations: <input type="checkbox"/> Filing Party/Chamber hereby submits BOTH the original and the translation to CMS for filing <input type="checkbox"/> Filing Party/Chamber will be submitting translation to CMS in due course, details are provided below. Fill in the boxes below. | Please take action with regard to translation: <input checked="" type="checkbox"/> Party/Chambers hereby submits the original, and will NOT oversee translation. Ignore the boxes below. <input type="checkbox"/> Reference material is provided in annex to facilitate translation |
|--|---|

| | |
|--|--|
| <input type="checkbox"/> Chamber <input type="checkbox"/> OTP is over-seeing translation. (copy of translation requisition slip is attached for reference) Name of contact person: The document is submitted for translation in: <input type="checkbox"/> Arusha <input type="checkbox"/> Kigali <input type="checkbox"/> The Hague | <input type="checkbox"/> Defence is overseeing translation: Name of contact person: The document is submitted to the following accredited translation service (Translation fees will be submitted to LDFMS): Name of service: Address: Email / tel / fax: |
| Target Language: <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda | <input type="checkbox"/> Number of Pages <input type="checkbox"/> Expected date of translation: |

FOR OFFICIAL USE ONLY (TRIM DATA ENTRY / TRANSLATION PRIORITISATION)

| | | |
|---|--|--|
| <input type="checkbox"/> Top Priority <input type="checkbox"/> Urgent <input type="checkbox"/> Normal | (prioritisation to be completed by CMS in consultation with Chambers / LCSS) COMMENTS | <input type="checkbox"/> Required Date: <input type="checkbox"/> Hearing Date: <input type="checkbox"/> Other deadlines: |
|---|--|--|



UNITED NATIONS
NATIONS UNIES



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre

P.O. Box 6016, Arusha, Tanzania

Tel: 255 27 2504367-72 or 1 212 963 2850 — Fax: 255 27 2504000/2504373 or 1 212 963 2848

INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: KOFFI AFANDE
A: Legal Officer- Court Management
Through: SILVANA ARBIA
Acting Chief of Prosecutions
From: DENNIS MABURA
De: Case Manager
Subject: The Prosecutor versus Leonidas Rusatira ICTR-2002-80-I
Objet: Prosecutor's Application to Withdraw Indictment Against Leonadis Rusatira
without prejudice

Date: 15 AUGUST 2002
Ref: 2002 AUG 15 A 9:02
JUDICIAL RECORDS
RECEIVED
ICTR

Please refer to the above matter.

We would like to make a correction in regard to the Classification Level of the above Motion- Prosecutor's Application to Withdraw Indictment Against Leonadis Rusatira without prejudice filed on 12 August 2002 from "Strictly Confidential" to "Public".

Thank you for your cooperation.

Yours faithfully,

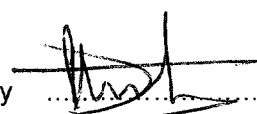

DENNIS MABURA



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

**PROOF OF SERVICE – ARUSHA
PREUVE DE NOTIFICATION - ARUSHA**

| | | | |
|--|--|---|---|
| Date: 12 August, 2002 | | Case Name / Affaire: The Prosecutor v. LEONIDAS RUSATIRA | |
| | | Case No / Affaire Nr.: ICTR-2002-80-I | |
| To: A: | <input type="checkbox"/> TC1 | received by / reçu par: | ALO: received by / reçu par |
| | <input type="checkbox"/> Judge N. Pillay, President | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge Møse, Vice President | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge A. Vaz | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge A. Gunawardana | | <input type="checkbox"/> |
| | <input type="checkbox"/> E. Nahamya, Co-ordinator | | |
| | <input checked="" type="checkbox"/> TC2 | | |
| | <input type="checkbox"/> Judge W. H. Sekule | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge W. C. Maqutu | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge A. Ramaroson | | <input type="checkbox"/> |
| | <input type="checkbox"/> R. Diarra, Co-ordinator | | |
| | <input type="checkbox"/> TC3 | | |
| | <input type="checkbox"/> Judge L. G. Williams | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge Y. Ostrovsky | | <input type="checkbox"/> |
| | <input type="checkbox"/> Judge P. Dolenc | | <input type="checkbox"/> |
| <input type="checkbox"/> M. Niang, Co-ordinator | | | |
| <input type="checkbox"/> OTP / BUREAU DU PROCUREUR | | | |
| <input type="checkbox"/> Trial Attorney in charge of case: SILVANA ARBIA | | received by  | |
| <input type="checkbox"/> DEFENCE / DÉFENSE: | | 13/08/02 | complete / remplir "CMS4 FORM" |
| <input type="checkbox"/> Accused / Accusé: LEONIDAS RUSATIRA | | | |
| <input type="checkbox"/> Lead Counsel / Conseil Principal: | | | |
| <input type="checkbox"/> In / à Arusha (signature) | | <input type="checkbox"/> by fax complete / remplir "CMS3bis FORM" | |
| <input type="checkbox"/> Co-Counsel / Conseil Adjoint: | | | |
| <input type="checkbox"/> In / à Arusha (signature) | | <input type="checkbox"/> by fax complete / remplir "CMS3bis FORM" | |
| All Decisions: | <input type="checkbox"/> Appeals Chamber Unit, The Hague | <input type="checkbox"/> Suzanne Chenault, Jurist Linguist | |
| All Decisions & Important Public Documents: | <input type="checkbox"/> Press & Public Affairs | <input type="checkbox"/> Legal Library | |
| From: | <input type="checkbox"/> JP. Fomété (OIC, CMS) | <input type="checkbox"/> Y. Ling (TC 1) | <input type="checkbox"/> R. Kouambo (TC2) |
| De: | <input checked="" type="checkbox"/> K. Afande (TC 3) | <input type="checkbox"/> F. Talon (Appeals) | |
| Cc: | <input type="checkbox"/> A. Dieng | <input type="checkbox"/> A. Miller, OLA, NY | <input type="checkbox"/> L. G. Munlo |
| | <input type="checkbox"/> K. Moghalu | <input type="checkbox"/> S. Van Driessche | |
| Subject Objet: | <input type="checkbox"/> WSSS- D | | |
| | <input type="checkbox"/> WSSS-P | | |
| | <input type="checkbox"/> E. O'Donnell | | |
| | <input type="checkbox"/> LDFMS | | |
| | <input type="checkbox"/> GLSS | | |
| | <input type="checkbox"/> P. Enow | | |
| Kindly find attached the following document(s) / Veuillez trouver en annexe le(s) document(s) suivant(s): | | | |

Documents name / titre du document

Date Filed / Date enregistré Pages

**PROSECUTOR'S APPLICATION TO WITHDRAW INDICTMENT AGAINST
LEONIDAS RUSATIRA WITHOUT PREJUDICE**

12/08/2002

3